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Attorney for Petitioner,
Enterprise Rent-A-Car Company of San Francisco

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KATHLEEN W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ENTERPRISE RENT-A-CAR COMPANY
OF SAN FRANCISCO, a Nevada corporation,

Petitioner,

v.

SAN FRANCISCO POLICE DEPARTMENT,
and DOES 1 through 10, inclusive,

Respondents.

Case No.: 3:06-cv-04638-MMC

**STIPULATION TO WITHDRAW
DISMISSAL OF OCTOBER 23, 2006, AND
TO ENTER AN AMENDED DISMISSAL
OF FEDERAL CLAIMS AND TO
REMAND TO STATE COURT OF
REMAINING CLAIMS; [PROPOSED]
ORDER**

RECITALS

On October 23, 2006, counsel for San Francisco Police Department caused to be filed in the above captioned court a dismissal of Federal Claims and Remand to State Court of Remaining Claims.

Upon further review by counsel, it was discovered that the Stipulation for Dismissal was described as "with prejudice." It is the intent of the parties that the Federal Causes of Action be dismissed **without** prejudice. Wherefore, the prior stipulation entered into by the parties is hereby amended to states as follows:

Plaintiff Enterprise Rent-A-Car Company of San Francisco filed an action in the Superior Court of the State of California for the County of San Francisco on or about March 13, 2006,

**STIPULATION TO WITHDRAW DISMISSAL OF OCTOBER 23, 2006, AND TO
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STATE COURT OF REMAINING CLAIMS; [PROPOSED] ORDER**

1 alleging claims against defendant City and County of San Francisco, sued as San Francisco
2 Police Department. Of these claims, the Fourth Cause of Action alleged a civil rights violation
3 arising under 42 U.S.C. § 1983 against defendant. Defendant was served on June 28, 2006. On
4 July 28, 2006, defendant removed this action to this Court pursuant to 28 U.S.C. § 1441(b) and
5 1443 because of the federal cause of action alleged by plaintiff.

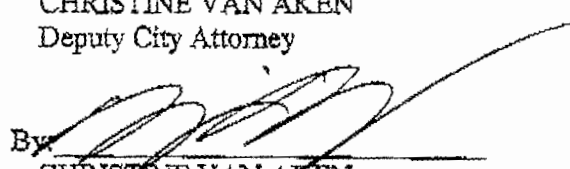
6 The parties have now agreed that plaintiff will dismiss its fourth cause of action arising
7 under 42 U.S.C. § 1983 without prejudice, and that this matter should be remanded to state
8 court for adjudication of plaintiff's remaining causes of action. The parties therefore request that
9 this Court enter an Order dismissing plaintiff's fourth cause of action without prejudice, and
10 remanding the matter to state court pursuant to 28 U.S.C. § 1447(c).

11
12 **STIPULATION**

13 For the foregoing reasons, the parties through their undersigned counsel, stipulate and
14 agree to entry of an order (1) dismissing plaintiff's fourth cause of action without prejudice; and
15 (2) remanding the matter to the Superior Court of the State of California for the County of San
16 Francisco.

17
18 Dated: October 24 2006

DENNIS J. HERRERA
City Attorney
JOANNE HOEPER
Chief Trial Deputy
CHRISTINE VAN AKEN
Deputy City Attorney

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23 By 
CHRISTINE VAN AKEN
Attorneys for Defendant,
CITY AND COUNTY OF SAN FRANCISCO

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26 *Signatures Continued on Following Page*

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**STIPULATION TO WITHDRAW DISMISSAL OF OCTOBER 23, 2006, AND TO
ENTER AN AMENDED DISMISSAL OF FEDERAL CLAIMS AND TO REMAND TO
STATE COURT OF REMAINING CLAIMS; [PROPOSED] ORDER**

1 Dated: October 24, 2006

CHRISTOPHER R. MILTON, ESQ.
THE LAW OFFICES OF CHRISTOPHER R. MILTON

2
3 By: 

CHRISTOPHER R. MILTON
Attorney for Plaintiff, ENTERPRISE RENT-A-CAR
COMPANY OF SAN FRANCISCO

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7 **ORDER**

8 GOOD CAUSE appearing, it is HEREBY ORDERED that the Stipulation for Dismissal
9 and Remand, executed by the defendant on October 17, 2006 and by the plaintiff on October 22,
10 2006 is hereby vacated. It is further ordered that plaintiff's fourth cause of action is dismissed
11 without prejudice, and that this matter is remanded to the Superior Court of the State of
12 California for the County of San Francisco.

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14 IT IS SO ORDERED.

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16 Dated: OCT 30 2006


THE HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT COURT

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**STIPULATION TO WITHDRAW DISMISSAL OF OCTOBER 23, 2006, AND TO
ENTER AN AMENDED DISMISSAL OF FEDERAL CLAIMS AND TO REMAND TO
STATE COURT OF REMAINING CLAIMS; [PROPOSED] ORDER**